

**REMARKS**

Applicant has now had an opportunity to carefully consider the prior art and Examiner's comments set forth in the Office Action of October 3, 2008.

Reconsideration of the Application is requested.

**The Office Action**

Claims 1-53 and 55-59 were examined. Claims 1-53 and 55-59 stand rejected finally. Claims 1-53 and 55-58 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,035,812 to Meisel et al. (hereinafter "Meisel") in view of U.S. Patent No. 6,925,442 to Shapira et al. (hereinafter "Shapira"). Claim 59 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Meisel in view of Shapira in further view of U.S. Patent No. 7,225,182 to Paine et al. (hereinafter "Paine"). Claim 55 is rejected under 35 U.S.C. § 112, first paragraph. Claim 59 is rejected under 35 U.S.C. § 112, second paragraph. Applicant appreciates the indication that all art submitted in the Information Disclosure Statement has been considered.

**Claim 55 Complies with the Written Description**

As amended, claim 55 adds the following limitation to claim 1: "wherein calculating the ROAI in f) is based at least in part on historical sales data from sales made on an advertiser's website that are associated with at least one keyword of the expanded plurality of candidate keywords and a cost per click associated with the keyword in order to determine a value of the keyword." Notably, the "subtracting the cost of obtaining the keyword" has been removed and claim 55 has been restructured to state "cost per click associated with the keyword" in relation to sales on the advertiser's website. Therefore, the Applicant respectfully requests the corresponding 112, first paragraph rejection of claim 55 be withdrawn.

**Claim 59 is Not Indefinite**

As amended, claim 59 adds the following element to claim 1: "performing a competition assessment in which a competition assessment agent collects and analyzes information from at least one competitor's website to select one or more competitor keywords, wherein at least one of the initial plurality of candidate keywords

and the expanded plurality of candidate keywords is based at least in part on the competitor keywords from the competition assessment.” Notably, the phrase “competitive assessment” is replaced with “competition assessment” and the element of claim 59 is linked to the initial plurality of candidate keywords of b) and the expanded plurality of candidate keywords of c) in claim 1. Therefore, the Applicant respectfully requests the corresponding 112, second paragraph rejection of claim 59 be withdrawn.

**The Claims are Not Anticipated or Taught by Meisel**

The Meisel reference as cited by the Examiner arguably teaches a bidding system where the bidding influences the buyer’s resulting position in the search results list of a performed keyword search query. However, Meisel does not teach the claimed elements of automatic or ongoing placement and replacement of bids, return on advertising investment (ROAI), and that such a system is performed automatically.

Meisel arguably teaches receiving a plurality of candidate advertisements and bids from a plurality of advertisers, and placing said advertisements in accordance with said bids. However, in order for any one advertiser to optimize as time passes and advertisers enter and leave the system, the bids must necessary be constantly updated automatically, in a manner that any one advertiser cannot perform manually. This happens continuously in a highly efficient market such as the ones that currently exist in today’s keyword searching and bidding marketplace. Meisel does not teach this automatic element of the placement of bids.

**The Claims are Not Taught by Shapira**

Shapira arguably teaches a method of evaluating an advertising campaign. However, Shapira does not teach the automatic placement of bids based upon such an evaluation. Shapira does not place bids, does not enable a means for calculating returns on effectiveness of advertising where an advertising investment and is not applicable to word pairs or comparisons.

With respect to claim 1, Meisel does not teach the use of a return on advertising investment. Further, Meisel in combination with Shapira do not teach this specific functionality.

With respect to claim 8, the Examiner argues that Meisel discloses a click-through rate for each advertisement-keyword pair being estimated by placing the advertisement and a search results list on a trial basis. However, the section of Meisel cited by the Examiner does not teach this. There is no reciting of a keyword pair and there is no reciting of a trial basis. Therefore the section of Meisel cited by the Examiner cannot be said to teach these specific elements of the claim.

Claim 9 discloses a click-through rate for each keyword pair using an algorithm to estimate the relevance of a keyword. The Examiner cites Meisel as teaching this specific aspect of the claim. However, the section of Meisel cited by the Examiner does not teach an algorithm.

Claim 10 discloses an estimated click-through rate for an advertising keyword pair being continuously revised based on actual search queries. Meisel as cited by the Examiner teaches a continuous function. However, a continuous function is a mathematical concept and a mathematical formulation which is not the same things as continuous activity claimed in the present application.

Claim 13 discloses a revenue event including at least one of a sale, lead generation, and form submission. The Examiner cites Shapira as teaching this by reciting time spent on a page. However, the time spent on a page by someone using a click-through is not the same thing as a sale, a lead generation, or a form submission and therefore this section of Shapira cannot be said to teach the element of the claim.

Claim 14 discloses a revenue event and a corresponding revenue amount stored in a database. The Examiner cites Shapira as teaching this based on reciting a number of visitors. However, the number of visitors does not teach a revenue event. It is entirely possible for any number of visitors to visit a site and if none of them made a purchase there would be no revenue event. There a number of visitors cannot be said to teach a revenue event.

Claim 16 discloses the revenue event and revenue amount being stored in a database. The Examiner cites Shapira as teaching visitor addresses and visitor exits.

However, visitor addresses and exits are not revenue generating events and thus this section of Shapira cited by the Examiner cannot be said to claim the element of the present application.

Claims 17, 18, and 34 associate an advertisement-keyword pair click being associated with a revenue event. The Examiner cites Shapira as disclosing receiving tracked events. Here again the Examiner is merely reciting visitor addresses and exits which are not revenue events.

Claims 20 and 36 disclose considering an experience level. The Examiner cites Shapira as teaching a qualification level comprised of a set of requirement and a quantitative value. However, these elements of comprising a quantification level do not teach an experience level. Experience is more a factor of time rather than a set of requirements. Therefore, the Examiner's rejection does not teach the claimed elements.

Claim 21 discloses receiving a return on advertising investment from an advertiser. The Examiner admits that Meisel does not teach this and cites Shapira as teaching or reciting a return on investment for each advertising campaign. However, an advertising campaign is a larger and much more broad business concept than advertising keyword pair which comprises a pair of words thus a return on an advertising investment for an advertising campaign cannot be said to teach a return on an advertising keyword pair.

Claims 24 and 36 disclose recommending an optimal set of bid considerations. The Examiner cites Meisel in FIGURE 26. However, the present art of Meisel only contains nine figures. Meisel does not include a FIGURE 26, therefore, FIGURE 26 cannot be said to teach anything as it does not exist. Considering that this might be a typographical error and the Examiner meant to recite column 26, lines 55-64, there is still no mention of an optimal set of bid considerations and thus Meisel cannot be said to teach this.

Claims 25 and 39 disclose storing bid combinations in a database. The Examiner cites Meisel as teaching an audit trail of events. However, an audit trail of events is not the same thing as a bid consideration within a database. An audit trail

exists primarily to provide a record for accounting in auditing purposes, not to store bid combinations for further use by a system user.

Claims 27 and 30 disclose the advertiser constraint in a maximum budget for a predetermined period of time. The Examiner cites Meisel's teaching of running totals as teaching this. However, the claim is for a budget balance between predetermined periods of time, whereas the Examiner is teaching advertising campaigns which is different than advertising keyword pairs. Claim 29 discloses an advertiser constraint can be an action event, an activity, or an action on the advertiser's website. The Examiner admits that Meisel does not teach this and recites Shapira as teaching this based on a return on advertising investment. However, once again Shapira is teaching for purposes of advertising campaigns and not for keyword pairs as claimed in the present application.

#### **Paine does Not Teach the Present Application**

The Examiner brings in Paine to teach claim 59 which recites a competitive assessment. However, Paine arguably teaches the use of collaborative searching and spidering for recommended search terms by Examining a competitor's website at arms-length. As such, Paine does not teach an automatic placement of bids based upon such recommendations. Moreover, Paine does not teach use of a competition assessment that includes selecting one or more competitor keywords associated with the competitor's website. Therefore, Paine, in combination with Shapiro and Meisel, does not teach each and every aspect of the present application.

#### **Summary**

Based at least on the foregoing, it is submitted that claims 1-21, 23-52, and 55-58 are patentably distinguished from the combination of Meisel and Shapira. Also, based at least on the foregoing it is submitted that claim 59 is patentably distinguished from the combination of Meisel, Shapira, and Paine. Accordingly, it is submitted that claims 1-21, 23-52, and 55-59 are currently in condition for allowance.

**CONCLUSION**

For the reasons detailed above, it is submitted all remaining claims (Claims 1-21, 23-52, and 55-60) are now in condition for allowance. Alternatively, if the Examiner is of the view that the application is not in clear condition for allowance, it is requested that the Examiner telephone the undersigned for purposes of conducting a telephone interview to resolve any outstanding differences. Accordingly, an early notice of allowance is earnestly solicited.

☒ Remaining Claims, as delineated below:

| (1) FOR            | (2) CLAIMS REMAINING AFTER<br>AMENDMENT LESS HIGHEST NUMBER<br>PREVIOUSLY PAID FOR |        | (3) NUMBER EXTRA |
|--------------------|--|--------|------------------|
| TOTAL CLAIMS       | 57   | - 57 = | 0                |
| INDEPENDENT CLAIMS | 5  | - 6 =  | 0                |

☒ This is an authorization under 37 CFR 1.136(a)(3) to treat any concurrent or future reply, requiring a petition for extension of time, as incorporating a petition for the appropriate extension of time.

☒ The Commissioner is hereby authorized to charge any filing or prosecution fees which may be required, under 37 CFR 1.16, 1.17, and 1.21 (but not 1.18), or to credit any overpayment, to Deposit Account 24-0037.

Respectfully submitted,

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